



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SEP 18 2013

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert D. Fingar, Esq.
Guilday, Schwartz, Simpson, West, Hatch
& Lowe, P.A.
1983 Centre Pointe Boulevard, Suite 200
Tallahassee, Florida 30303

Re: Consent Agreement and Final Order
Jim Hinton Oil Co, Inc.
Docket No. CWA-04-2013-5132(b)

Dear Mr. Fingar:

Enclosed is a copy of the fully executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk (RHC) in the above referenced matter. The CA/FO was effective upon filing with the RHC and payment of the civil penalty is to be paid within thirty (30) calendar days of the effective date of the CA/FO.

Also enclosed is a copy of a document titled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Midroc Operating Company on notice of its potential duty to disclose to the Securities and Exchange Commission any environmental actions taken by the EPA.

If you have any questions, please feel free to contact Paula Whiting of my staff at (404) 562-9277.

Sincerely,

A handwritten signature in blue ink that reads "CÉSAR A. ZAPATA".

César A. Zapata
Chief, RCRA and OPA Enforcement and
Compliance Branch
RCRA Division

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

)	
)	
IN THE MATTER OF)	CWA SECTION 311 CLASS I CONSENT
)	AGREEMENT AND FINAL ORDER
)	UNDER 40 C.F.R. § 22.13(b)
)	
Jim Hinton Oil Co., Inc.)	
609 West Hill Avenue)	
Valdosta, Lowndes County, Georgia)	Docket No. CWA-04-2013-5132(b)
)	
Respondent)	

RECEIVED
EPA REGION IV
2013 SEP 18 AM 10:01
HEARING CLERK

I. LEGAL AUTHORITY

1. This Consent Agreement is proposed and entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 311(b)(6)(B)(i) of the Clean Water Act (“CWA”), 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and under the authority provided by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region 4, who has in turn delegated these authorities through the Director, RCRA Division, to the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division (“Complainant”).

II. CONSENT AGREEMENT

2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent

have agreed to the execution of this Consent Agreement and Final Order (CA/FO), and Respondent hereby agrees to comply with the terms of this CA/FO. For purposes of this CA/FO and settlement of this action, Respondent admits to the jurisdictional statements contained herein.

III. STIPULATIONS

3. Jim Hinton Oil Co., Inc. (“Respondent”) is a for-profit corporation organized under the laws of the State of Florida and registered to do business in the State of Georgia. Respondent is a person within the meaning of Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7).

4. The Respondent is the “owner” and the “operator” within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), of a bulk oil storage facility with five (5) above ground storage tanks and associated ancillary equipment located at 609 West Hill Avenue in the City of Valdosta, Lowndes County, Georgia (“the Facility”). The Facility includes storage tanks with a total tank shell capacity of approximately 102,000 barrels of “oil,” as that term is defined in Section 311(a)(1) of the CWA, 42 U.S.C. § 1321(a)(1).

5. The Facility is an “onshore facility” within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10).

6. Pursuant to 40 C.F.R. § 112.1, the Spill Prevention, Control and Countermeasure (SPCC) regulations set out in 40 C.F.R. Part 112 apply to each owner and operator of a non-transportation-related onshore facility engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using or consuming oil or oil products, which, due to its location, could reasonably be expected to discharge oil into or upon the navigable waters of the United States and their adjoining shorelines in such quantity as may be harmful, as described in 40 C.F.R. § 110.3 (“harmful quantity”).

7. Respondent is engaged in drilling, producing, gathering, storing, processing, transferring, distributing, using, or consuming oil or oil products located at the Facility.

8. The Facility has an aggregate above ground storage capacity greater than 1,320 gallons of oil in containers, each with a capacity of at least 55 gallons and therefore, does not qualify for the exemption under 40 C.F.R. § 112.1(d)(2).

9. The Facility is a non-transportation-related facility within the meaning of 40 C.F.R. § 112.2, as described in 40 C.F.R. Part 112, Appendix A.

10. The Facility is located proximate to Mud Creek, which drains the southern half of the City of Valdosta. Mud Creek is a tributary of the Alapaha River, which in turn is a part of the Suwannee River Basin. Both the Alapaha and Suwannee Rivers are “navigable waters” as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 112.2, and are therefore subject to the jurisdiction of Section 311 of the CWA.

11. Due to its location, the Facility could reasonably be expected to discharge oil and/or other pollutants to Mud Creek and then to the Alapaha and/or Suwannee Rivers and/or their adjoining shorelines in quantities that would (a) violate applicable water quality standards or (b) cause a film or sheen upon or discoloration of the surface of the navigable waters of the United States or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of such water or adjoining shorelines.

12. The Facility is therefore a non-transportation-related onshore facility which, due to its location, could reasonably be expected to discharge a harmful quantity of oil to a navigable water of the United States or its adjoining shorelines in a harmful quantity and is, as such, an SPCC-regulated facility.

13. Pursuant to 40 C.F.R. § 112.3, the owner or operator of an SPCC-regulated facility

must prepare in writing and implement an SPCC plan in accordance with 40 C.F.R. § 112.7 and any other applicable sections of 40 C.F.R. Part 112.

IV. ALLEGATIONS

Complainant alleges, and Respondent neither admits nor denies, that:

14. On or about February 26, 2009, an inspection was conducted by EPA at the Respondent's Facility to determine compliance with SPCC regulations.

15. Respondent failed to prepare an adequate written SPCC Plan ("Plan") in accordance with 40 C.F.R. §§ 112.7, 112.8, and any other applicable sections of 40 C.F.R. Part 112, as required by 40 C.F.R. § 112.3(a). Specifically, the Plan violated the following requirements of the SPCC regulations:

The Plan failed to include a description of the Facility's obligation under 40 C.F.R. § 112.8(c)(10) to promptly correct visible discharges from tanks, seams, gaskets, valves, piping, etc., and to have accumulations of oil in diked areas promptly removed.

16. Respondent failed to implement the Facility's Plan in accordance with 40 C.F.R. §§ 112.7, 112.8, and any other applicable sections of 40 C.F.R. Part 112, as required by 40 C.F.R. § 112.3(a). Specifically, the EPA found the Respondent violated the SPCC regulations by failing to implement the following requirements:

- a. Respondent failed to provide lighting at the Facility adequate to assist in a discovery of discharges and/or prevent vandalism during night hours, as required by 40 C.F.R. § 112.7(g)(5).

- b. Respondent failed to provide evidence of physical barriers, warning signs, wheel chocks, or brake interlock systems in loading/unloading areas adequate to prevent vehicles from departing before the complete disconnection of oil lines, as required by 40 C.F.R. § 112.7(h)(2).
- c. Respondent failed to provide adequate records of drainage of rainwater from diked areas, as required by 40 C.F.R. § 112.8(c)(3)(iv).
- d. Respondent failed to adequately maintain records of inspections and integrity tests of above ground storage tanks, as required by 40 C.F.R. § 112.8(c)(6).
- e. Respondent failed to maintain a sufficient height of secondary containment structures due to missing portions of concrete block walls, as required by 40 C.F.R. § 112.8(c)(2).
- f. Respondent failed to provide an adequate showing that diked areas were sufficiently impervious so as to contain discharged oil, as required by 40 C.F.R. § 112.8(c)(2).
- g. Respondent failed to provide an adequate showing that rainwater in diked areas is inspected sufficiently so as to ensure that there has been no harmful discharge, as required by 40 C.F.R. § 112.8(c)(3)(ii).
- h. Respondent failed to equip each container with a device for sensing liquid levels, as required by 40 C.F.R. § 112.8(c)(8).
- i. Respondent failed to adequately demonstrate that visible discharges are promptly corrected and oil promptly removed, as required by 40 C.F.R. § 112.8(c)(10).
- j. Respondent failed to provide adequate warning to vehicles' drivers so that the vehicles do not endanger piping and oil transfer areas, as required by 40 C.F.R. § 112.8(d)(5).

17. The EPA therefore alleges that Respondent violated the regulatory requirements cited in paragraphs 15. and 16.a.-j above, and is therefore in violation of 40 C.F.R. § 112.3.

V. WAIVER OF RIGHTS

18. Solely for the purpose of this Consent Agreement, Respondent waives the right to contest the allegations contained herein, to a hearing under Section 311(b)(6)(B)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(i), and to appeal any Final Order in this matter under Section 311(b)(6)(G)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(G)(i), and consents to the issuance of a Final Order without further adjudication.

19. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CA/FO.

20. Respondent waives is right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO based on any issue based on the Paper Reduction Act, 44 U.S.C. § 3501 *et seq.*

21. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the CWA, 33 U.S.C. § 1321, or any regulations promulgated thereunder, and does not affect the right of the Administrator or the United States to pursue any applicable injunctive or other equitable relief or criminal sanctions for any violation of law.

VI. PAYMENT OF CIVIL PENALTY

22. Respondent consents to the payment of a civil penalty in the amount of **Fifteen Thousand Seven Hundred and Fifty** U.S. dollars (US\$**15,750.00**), which is to be paid **within thirty (30) calendar days** of the effective date of this CA/FO.

23. Payment shall be made by a corporate/cashier's or certified check, by electronic funds transfer (EFT), or on-line. If paying by check, Respondent shall submit a corporate/cashier's or certified check, payable to the "Environmental Protection Agency." The check shall bear the notation "*OSLTF – 311*" and Respondent shall reference the title and docket number of this case on the face of the check.

If Respondent sends payment by the U.S. Postal Service, the payment shall be sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
Post Office Box 979077
St. Louis, Missouri 63197-9000

If Respondent sends payment by an overnight commercial delivery service such as DHL, FedEx, or UPS, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 418-1028

If Respondent sends payment by wire transfer, the wire transfer should be directed to the Federal Reserve Bank of New York:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045

The *Field Tag 4200* of the Fedwire message should read "*D 68010727 Environmental Protection Agency.*"

Respondent may also elect the On-Line Payment Option, available through the Department of Treasury. This payment option can be accessed at www.pay.gov. Enter *sfo 1.1* in the search field and then open the form and complete required fields.

24. Respondent shall submit copies of each check (or, in the case of a wire transfer or on-line payment, a copy of the wire transfer or on-line confirmation) to the following people:

Patricia Bullock
Regional Hearing Clerk
U.S. EPA, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

and to:

Larry Lamberth, Chief
South Compliance and Enforcement Section
RCRA and OPA Enforcement and Compliance Branch
RCRA Division, US EPA Region IV
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

25. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).

26. Respondent's failure to pay the penalty assessed by the Final Order in full by its due date may subject Respondent to a civil action to collect the assessed penalty, plus interest, attorney's fees, costs and an additional quarterly nonpayment penalty pursuant to Section 311(b)(6)(H) of the CWA, 33 U.S.C. § 1321(b)(6)(H). In any such collection action, the validity, amount, and appropriateness of the penalty agreed to herein shall not be subject to review.

VII. GENERAL PROVISIONS

27. The Final Order shall be binding upon Respondent and Respondent's officers, directors, agents, and successors or assigns.

28. No change in ownership, partnership, corporate, or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.

29. Compliance with this CA/FO resolves Respondent's liability for federal civil penalties for the violations and facts stipulated to and alleged herein.

30. The undersigned representative of Respondent hereby certifies that he or she is fully authorized to enter into and execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the attached Final Order.

31. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents the EPA in this matter and who is authorized to receive service for the EPA in this proceeding:

Gregory D. Luetscher
Associate Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960
404-562-9677
Luetscher.greg@epa.gov

32. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents Respondent in this matter and who is to receive service for Respondent in this proceeding:

Robert D. Fingar, Esq
Guilday, Schwartz, Simpson, West, Hatch & Lowe, P.A
1983 Centre Pointe Boulevard, Suite 200
Tallahassee, Florida 32308-7823

33. By executing this CA/FO, Respondent certifies that all violations alleged herein, which are neither admitted nor denied, have been corrected.

VIII. SEVERABILITY

34. It is the intent of the parties that the provisions of this CA/FO are severable. If any provision or authority of this CA/FO or the application of this CA/FO to any party or circumstance is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CA/FO shall remain in force and shall not be affected thereby.

IX. EFFECTIVE DATE

35. This Consent Agreement and Final Order is effective when the Final Order is filed with the Regional Hearing Clerk.

SIGNATURES ON NEXT PAGE

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In The Matter of Jim Hinton Oil Co., Inc., 609 West Hill Avenue, Valdosta, Lowndes County, Georgia;

Docket No. ~~CWA-04-20XX-XXXX(b)~~
CWA-04-2013-5123(b) PAW

CONSENTED AND AGREED TO:

FOR: HINTON OIL CO., INC.

Date: 9/11/2013

Name: 
(Signature)

S. L. HINTON
(Please type or print)

Title: PRESIDENT

Address: P.O. BOX 38 VALDOSTA, GA 31603

FOR: U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 9/12/13

 FOR

César A. Zapata, Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF)
)
) CWA SECTION 311 CLASS I CONSENT
) AGREEMENT AND FINAL ORDER
) UNDER 40 C.F.R. § 22.13(b)
)
Jim Hinton Oil Co., Inc.)
609 West Hill Avenue,)
Valdosta, Lowndes County, Georgia)
) Docket No. CWA-04-2013-5132(b)
)
Respondent)
_____)

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 16 day of Sept., 2013.

BY: Susan B. Schub
Susan Schub
Regional Judicial Officer

CHECK PAYMENTS:

U.S. Environmental Protection Agency
Fines and Penalties
P.O. Box 979077
St. Louis, Missouri 63197-9000

WIRE TRANSFERS:

Wire transfers should be directed to the Federal Reserve Bank of New York

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

OVERNIGHT MAIL:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101

Contact: Natalie Pearson 314-418-1818

ACH (also known as REX or remittance express)

Automated Clearinghouse (ACH) for receiving U.S. currency
US Treasury REX / ACH Receiver
5700 Rivertech Court
Riverdale, Maryland 20737
Contacts: John Schmid 202-874-7028 or
Remittance Express 1-866-234-5681
ABA = 051036706
Transaction Code 22 – checking
Environmental Protection Agency
Account 310006
CTX Format

ON LINE PAYMENT:

There is now an On Line Payment Option, available through the Dept. of Treasury.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the Foregoing Consent Agreement and Final Order, in the matter of Jim Hinton Oil Co., Inc., Docket No. CWA-04-2013-5132(b), on the parties listed below in the manner indicated:

Gregory D. Luetscher
Associate Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

(Via EPA's internal mail)

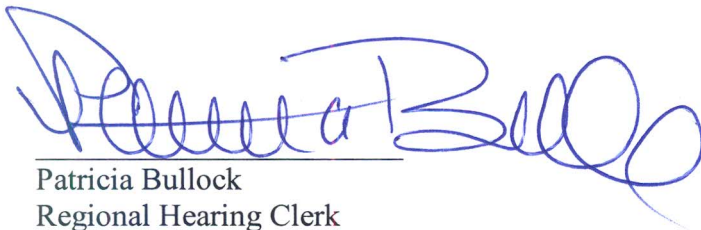
Quantindra Smith
RCRA & OPA Enforcement and Compliance Branch
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

(Via EPA's internal mail)

Robert D. Fingar, Esq.
Guilday, Schwartz, Simpson, West, Hatch & Lowe, P.A.
1983 Centre Pointe Boulevard, Suite 200
Tallahassee, Florida 32308-7823

(Via Certified Mail)

Dated this 18 day of September, 2013.



Patricia Bullock
Regional Hearing Clerk
U.S. EPA – Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960